

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

Alabama Gas Corporation,)	
Plaintiff,)	
v.)	
)	2:10-cv-1840-IPJ
Travelers Casualty and Surety)	
Company, et al.,)	
Defendants.)	
_____)	

**ALABAMA GAS CORPORATION’S MOTION TO
BIFURCATE DUTY TO DEFEND FROM BAD FAITH AND
DUTY TO INDEMNIFY ISSUES, TO EXPEDITE
CONSIDERATION OF DUTY TO DEFEND, AND TO STAY
ALL PROCEEDINGS ON BAD FAITH
AND DUTY TO INDEMNIFY**

Plaintiff, Alabama Gas Corporation (“Alagasco”), by and through the undersigned counsel, hereby files this Motion pursuant to Rules 42 and 57 to ask the Court to

1. bifurcate consideration of the duty to defend from issues surrounding bad faith and the duty to indemnify;
2. expedite consideration of Defendant St. Paul Fire and Marine Insurance Company’s (“St. Paul Fire’s”) duty to defend; and
3. stay all proceedings relating to bad faith and the duty to indemnify pending resolution of St. Paul Fire’s duty to defend.

As set forth in more detail in Plaintiff’s attached brief in support hereof, the

duty to defend issues in this Lawsuit can be decided as a matter of law with no discovery, and clarity on the duty to defend may allow the parties to resolve the remainder of the dispute. In contrast, the issues surrounding whether the Defendants' handling of this claim constituted bad faith and the extent of their duty to indemnify may require extensive discovery, motions practice and perhaps a trial by jury. The sequence proposed herein will minimize the use of judicial resources and, further, any inconvenience to the Defendants would be slight.

Respectfully submitted this 3rd day of September, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2010, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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Respectfully submitted,

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